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STRETCH LAB FRANCHISE, LLC and Third-
Party Defendant, ANTHONY GEISLER

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

STRETCH LAB FRANCHISE, LLC,
Plaintiff,
v.
STRETCH LAB, LLC; SAUL C.
JANSON; and TIMOTHY TROST,
Defendants.

STRETCH LAB, LLC, a California limited liability company; SAUL JANSON, an individual; and TIMOTHY TROST, an individual.

Counter-Claimants.

STRETCH LAB FRANCHISE, LLC, a Delaware limited liability company; and DOES 1-10, inclusive.

Counter-Defendant.

STRETCH LAB, LLC, a California limited liability company; SAUL JANSON, an individual; and TIMOTHY TROST, an individual,

Third-Party Claimants,

V.

ANTHONY GEISLER, an individual;
And DOES 1-10, inclusive,

Third-Party Defendant.

Case No. 2:18-cv-07816-GW (SSx)

**APPLICATION FOR LEAVE TO
FILE UNDER SEAL DOCUMENTS
IN SUPPORT OF PLAINTIFF'S
MOTION TO ENFORCE
SETTLEMENT AGREEMENT**

Date: December 9, 2021

Time: 8:30 a.m.

Courtroom: 9D

Judge: Hon. George H. Wu

Remote hearing requested.

1 **I. INTRODUCTION**

2 Pursuant to Local Rule 79-5, Plaintiff and Counter-Defendant, Stretch Lab
3 Franchise, LLC (“Plaintiff” or “SLF”) respectfully requests that the Court allow
4 Plaintiff to file under seal documents in support of its Motion to Enforce Settlement
5 Agreement. This Application to File Documents Under Seal is made following the
6 conference with Defendant Saul Janson (“Janson”), who did not state whether he
7 opposed this Application. Declaration of Glenn Dassoff in Support of Application
8 to File Under Seal (“Dassoff MTS Decl.”) ¶¶ 10-11.

9 SLF seeks to file under seal Exhibits A through G to the Declaration of Glenn
10 Dassoff in Support of Motion to Enforce Settlement Agreement (“Dassoff
11 Declaration”), Exhibit A to the Declaration of Louis DeFrancisco in Support of
12 Motion to Enforce Settlement Agreement (“DeFrancisco Declaration”), portions of
13 the DeFrancisco Declaration that reference the disparaging statements made in
14 Exhibit A to the DeFrancisco Declaration, and portions of SLF’s Memorandum of
15 Points and Authorities in Support of Motion to Enforce Settlement Agreement that
16 reference Exhibits A-G to the Dassoff Declaration and Exhibit A to the DeFrancisco
17 Declaration.

18 Exhibit A to the Dassoff Declaration is a copy of the September 9, 2019
19 Confidential Settlement Agreement and Mutual Release of Claims (the “Settlement
20 Agreement”) entered between SLF and Third-Party Defendant Anthony Geisler, on
21 the one hand, and Defendants/Counter-Claimants/Third-Party Plaintiffs Saul Janson,
22 Timothy Trost, and Stretch Lab, LLC. Pursuant to the Settlement Agreement, any
23 public filing of the agreement must be accompanied by a request that such filing be
24 made under seal. Settlement Agreement § 9(a)(ii). The Settlement Agreement also
25 contains confidential business information of SLF, such as indicia of SLF’s plans for
26 incorporating Defendants’ locations into SLF’s system and conforming those
27 locations to SLF’s trade dress and marketing strategies. *See id.* § 2(d), (g); Dassoff
28 Declaration ¶¶ 2, 4, Exs. A and C; *see also* Dassoff MTS Decl. ¶ 3.

1 Exhibit B to the Dassoff Declaration is a copy of the transcript of the
2 Settlement Conference Hearing that took place on July 12, 2019. This transcript
3 contains confidential settlement terms, which the Parties agreed on the record would
4 remain confidential. Dassoff MTS Decl. ¶ 4.

5 Exhibits C through G to the Dassoff Declaration are copies of communications
6 produced by both SLF and Defendant and Counter-Claimant Stretch Lab, LLC
7 (“SL”) that were designated as “Confidential” and/or “Confidential – Attorney’s
8 Eyes Only” pursuant to the protective order in this case signed by Magistrate Judge
9 Suzanne H. Segal on December 7, 2018. *See* ECF No. 45. These exhibits contain
10 confidential business information of SLF related to its training programs, stretching
11 programs, and marketing strategies that could cause harm to SLF if publicly
12 disclosed; or contain statements from Saul Janson disparaging SLF and its associates
13 that could cause harm to SLF’s reputation if disclosed. Dassoff MTS Decl. ¶ 5.

14 Exhibit A to the DeFrancisco Declaration is an email sent by Defendant Saul
15 Janson on October 12, 2021 consisting of disparaging statements about Louis
16 DeFrancisco and his wife, which were made in violation of the Settlement Agreement
17 and would cause irreparable harm to Mr. DeFrancisco and SLF if made public.
18 Dassoff MTS Decl. ¶ 6.

19 The DeFrancisco Declaration references some of the disparaging statements
20 made in the October 12, 2021 email sent by Defendant Saul Janson attached as
21 Exhibit A to the DeFrancisco Declaration. Dassoff MTS Decl. ¶ 7.

22 SLF’s Memorandum of Points and Authorities in Support of Motion to
23 Enforce Settlement Agreement references the confidential documents attached as
24 Exhibits A-G to the Dassoff Declaration and Exhibit A to the DeFrancisco
25 Declaration. Dassoff MTS Decl. ¶ 8.

26 These confidential information are necessary to support Plaintiff’s Motion to
27 Enforce Settlement Agreement.

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1 **II. ARGUMENT**

2 Courts have the power to seal court files that “might [] become a vehicle for
 3 improper purposes.” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978).
 4 On non-dispositive motions, like here, a party seeking to file under seal a document
 5 produced under seal in discovery only needs to establish that there is “good cause”
 6 for sealing the record. *In re Midland Nat'l Life Ins. Co. Annuity Sales Pracs. Litig.*,
 7 686 F.3d 1115, 1119 (9th Cir. 2012). Courts will grant a motion to seal if the public
 8 interest in disclosure is not outweighed by the potential harm posed by disclosure.
 9 See *Neill v. Bank of Am., N.A.*, No. 11-CV-2254-BGS, 2012 WL 6554414, at *2 (S.D.
 10 Cal. Dec. 14, 2012).

11 Good cause to seal exists here. First, the documents listed above refer to or
 12 attach the Settlement Agreement, which explicitly provides that any disclosure of the
 13 agreement must be made under seal. Settlement Agreement § 9(a)(ii); *see also*
 14 *Phillips ex rel. Ests. of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1212 (9th Cir.
 15 2002) (“Most significantly, courts have granted protective orders to protect
 16 confidential settlement agreements.”). There exists a strong public interest in
 17 encouraging settlements and in promoting the efficient resolution of conflicts which
 18 outweighs the public’s interest in disclosure of facts of minimal relevance. Further,
 19 the Settlement Agreement contains confidential business information of SLF, such
 20 as commentary on SLF’s plans and marketing strategies. *See id.* at 1211 (explaining
 21 that the law “gives district courts broad latitude to grant protective orders to prevent
 22 disclosure of materials for many types of information, including ... commercial
 23 information”); Dassoff MTS Decl. ¶ 3.

24 Second, the documents also refer to or attach documents designated
 25 “Confidential” and/or “Confidential – Attorney’s Eyes Only” pursuant to the
 26 protective order in this case signed by Magistrate Judge Suzanne H. Segal on
 27 December 7, 2018. *See* ECF No. 45; *see also Phillips Ex rel. Ests. of Bryd*, 307 F.3d
 28 at 1213 (“When a court grants a protective order for information produced during

1 discovery, it already has determined that ‘good cause’ exists to protect this
2 information from being disclosed to the public by balancing the needs for discovery
3 against the need for confidentiality.”). Specifically, they contain business
4 information of SLF related to its training programs, stretching programs, and
5 marketing strategies that could cause harm to SLF if publicly disclosed. Dassoff
6 MTS Decl. ¶ 5.

7 Third, the documents also refer to or attach a disparaging statement at issue in
8 the underlying Motion to Enforce Settlement Agreement that was made in violation
9 of the Settlement Agreement, along with other disparaging statements Mr. Janson has
10 made in the past, which would cause irreparable harm to Mr. DeFrancisco and SLF
11 if disclosed to the public. *Id.* ¶¶ 5, 6; *Algarin v. Maybelline, LLC*, No. 12-CV-3000
12 AJB (DHB), 2014 WL 690410, at *2 (S.D. Cal. Feb. 21, 2014) (explaining that
13 justification to seal exists where records may be used to “circulate libelous
14 statements” or “promote public scandal”). Because there is good cause to seal, SLF
15 respectfully requests that the Court grant its Application to File Documents Under
16 Seal.

17 **III. CONCLUSIONS**

18 For all the reasons set forth, SLF respectfully requests that the Court grant its
19 Application to File Documents Under Seal.

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21 Dated: November 5, 2021

ORRICK, HERRINGTON & SUTCLIFFE LLP

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By: /s/ Glenn D. Dassoff

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